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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,437	10/24/2003	James R. Richter	09793953-0040	2007
26263	7590	05/19/2005	EXAMINER	
SONNENSCHEIN NATH & ROSENTHAL LLP P.O. BOX 061080 WACKER DRIVE STATION, SEARS TOWER CHICAGO, IL 60606-1080			PATEL, VISHAL A	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/693,437	RICHTER, JAMES R.
	<b>Examiner</b>	<b>Art Unit</b>
	Vishal Patel	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 January 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \*    c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kortmann (DE 29502331 U1) in view of Barton (US. 3528,668).

Kortmann discloses a seal member for forming a seal between a pipe extending axially through a cylindrical opening (member 3 extending through a hole). The seal member comprising a resilient compressible elastomer seal block (block formed by 9 and 10), the block having a height to be oriented in an axial direction relative to the pipe, a width to be oriented in a circumferential direction to the pipe and a thickness to be oriented in a radial direction relative to the pipe (the block has a height, width and thickness). The width of the blocks extending less than a full circumference of the pipe (i.e. 9 is a pivot clamp casing which is a split ring similar to that seen in figure 11 of Barton). The thickness varies from a smallest dimension to a largest dimension such that a thickness at one circumferential end of the block is less than a thickness at an opposite circumferential end of the block. The block has a passage (passage where bolt 18 lies) extending therethrough in the axial direction.

Kortmann discloses the invention substantially as claimed above and further discloses a method of forming a seal in an annular space between a pipe extending axially through a cylindrical hole and the pipe is positioned eccentrically in the hole (pipe inserted in hole of body

4). The steps comprising selecting resilient compressible elastomer seal member having blocks (this is the case since the sealing element 1 is formed of pivot clamp casing 9 and 10 that are pivoted to be placed on the member 3) to form a ring of blocks surrounding the pipe (3) in the hole, the blocks having a fixed height (height of block), a selected thickness (each block has a thickness) and a selected width (the width and thickness vary for sealing element 1). The method having another step of inserting a smallest thickness block in a portion of the annular space between the pipe and the opening comprising a smallest radial dimension (smallest radial dimension between the body 4 and the member 3 that has a smallest portion of the sealing ring 1), with the thickness direction of the block arranged radially, the height direction arranged axially, and the width direction arranged circumferentially relative to the pipe (as seen in figures). The method having a further step of inserting, in a similar orientation, a largest thickness block in a greatest radial dimension between the pipe and the opening (largest radial dimension between body 4 and the member 3 that has a largest portion of the sealing ring 1). The angular width of the selected plurality of blocks, when joined together in a ring, comprising approximately 360 degrees (the blocks form a ring). The method having another step of inserting a bolt (18) through the height of each block parallel to the axis of the pipe and thereafter, tightening the bolts so as to compress the blocks in the axial direction, causing the blocks to expand in the radial and circumferential directions such that the blocks will completely fill the annular space between the pipe and the hole to effect a seal therebetween (seal formed by 1 after the bolts 18 are tightened). The step of connecting adjacent blocks together prior to inserting any of the blocks into the annular space (this would be the case since the blocks are held together by bolts and then placed on 3). A first and a last block are connected together to

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form a ring of blocks, after the blocks have been inserted into the annular space (this is the case since 9 and 10 are connected to form a ring that is placed on 3). The ring has a varying width. The blocks (9 and 10) are interconnected to each other. The method further having a step of measuring an outer diameter of the pipe (outer diameter of 3), an inner diameter of the hole (inner diameter of the hole) and measuring the smallest distance or a greatest distance between the pipe and the hole (this is the case as seen in figures 6-10). These measurements will provide data to select the smallest dimension of the seal member having the blocks and the largest dimension of the seal member having the blocks. The seal member having an arc shape in the circumferential direction (this is the case since the sealing member is annular and surrounds member 3 which is cylindrical).

Kortmann discloses the invention substantially as claimed above but fails to disclose that the sealing element can be formed into multiple or plurality of blocks, so as to provide intermediate blocks between the smallest and largest blocks, all the blocks are interconnected by the connecting members that are used to connect two adjacent blocks to form a ring. The block has an overhanging portion at one end and a projecting portion at an opposite end with a passage extending axially through the overhanging portion and the projecting portion, such that when the blocks are positioned adjacent to one another, the overhanging portion of the one block will overlie the projecting portion of the other block and the passages will align. Barton teaches that a seal having blocks that are formed by segmented the seal by a single slit (figure 10) or a seal formed by multiple of blocks (all the rings of figures 1-16 are formed by plurality of blocks) having multiple slits (slits shown in figure 16), each block has an overhanging portion at one end (301x) and a projecting portion (other of 301x) at an opposite end with a passage (passages 305)

extending axially through the overhanging portion and the projecting portion, such that when the blocks are positioned adjacent to one another (as seen in figure 16), the overhanging portion of the one block will overlie the projecting portion of the other block and the passages will align (the passages 305 are aligned). It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the sealing element of Kortmann to have plurality of blocks to provide intermediate blocks and the blocks having overhanging portions and projecting portions that intermesh and a passage that aligns to receive the blot through the overhanging portion and projection portion as taught by Barton to provide sealing for different pipe sizes (column 2, lines 61-64 of Barton) and a more economical sealing member (column 3, lines 1-22 or Barton).

*Response to Arguments*

3. Applicant's arguments filed 1/31/05 have been fully considered but they are not persuasive.

Applicants' argument that Kortmann teaches that a single 360 degree block is used is not persuasive because as the abstract of Kortmann teaches that 9 is a pivoting clamp casing which is a split ring similar to that seen in figure 11 of Barton, therefore each half would be less than the circumference of the pipe.

Applicants' argument that Barton only teaches standard modular type seal not a seal for eccentrically positioned pipes is true but Barton is only used to teach that plurality of blocks are used to provide easy installation of seal around the pipe and to have overhangs to provide proper connection between each blocks.

Applicants' argument that Kortmann does not teach the block to extend less than a full circumference of the pipe is not persuasive because this is taught by Barton that plurality of blocks are used to provide easy installation of seal around the pipe and to have over hangs to provide proper connection between each blocks.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:** 703-872-9326, for formal communications for entry before Final action; or,  
703-872-9327, for formal communications for entry after Final action.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive,  
Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP  
May 13, 2005

  
ALISON PICKARD  
Primary Patent Examiner  
Tech. Center 3600